

Washington Supreme Court Justice Helen Whitener faces challenger Richard Serns

[MAI HOANG Yakima Herald-Republic](#)

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Candidates vying for the Washington State Supreme Court Position 6 seat, from left, Justice Grace Helen Whitener and Rick Serns, former Winlock School Superintendent.

Courtesy images

In the race for Position 6 on the Washington Supreme Court, the candidates seek to leverage starkly different career backgrounds.

Justice G. Helen Whitener was appointed to the position by Gov. Jay Inslee in April. She is looking to retain her seat for the two years left in the term of former Justice Charles Wiggins, who retired in March. Whitener has campaigned on her experience as an attorney and as a judge in municipal, district and superior courts.

Before her appointment to the Washington Supreme Court, she was a judge with Pierce County Superior Court for five years.

Whitener's opponent is Richard Serns, who retired in 2019 as superintendent of the Winlock School District. Serns does not have a background as an attorney or judge, but believes that the skills gained from his education career will transfer to the Supreme Court.

He graduated from the University of Washington School in Law in 1999 and passed the Washington State Bar Exam earlier this year.

Whitener's campaign has received \$67,890.54 in contributions versus \$2,725.61 for the Serns campaign, according to the state Public Disclosure Commission.

The annual salary of a Washington Supreme Court Justice is \$223,499, according to the Washington Citizens Commission on Salaries for Elected Officials, which sets salaries for elected officials in the executive, legislative and judicial branches of state government.

The Washington Supreme Court has recently ruled on high-profile topics such as farmworker pay, water rights issues, tribal law and public education funding.

Whitener and Serns participated in interviews. Their responses were edited for clarity and space.

Why are you qualified to serve as a Washington Supreme Court Justice?

Whitener: I've been Pierce County Superior Court Judge; I've been a judge for the Board of Industrial Insurance Appeals. I have been a judge on district court as well as a pro-tem judge on the Pierce County District Court and Tacoma Municipal Court. I've been a prosecutor. I've done public defense and private defense. For the Washington Supreme Court, I've written opinions. I sat in some 20 oral arguments and will be hearing another 20 oral arguments during this term.

What's unique is that I've been a prosecutor, defense attorney and judicial officer at all three trial levels — municipal, district and superior court. That's unusual. It gives me an intimate knowledge of how our courts' decisions impact the lower courts, including implementing the court's opinions. Understanding how a rule from the court or the decision from the high court will play out in practical terms is extremely helpful.

Serns: My experience is nontraditional. I haven't represented clients, and I haven't served as a judge. I feel, however, my experience gives me the skill set for this particular position.

In any school administration position — from principal to a central office position to superintendent to human resources, which I did for 12 years — there are all kinds of legal issues you encounter daily.

I also taught school law at Seattle Pacific University.

Being in education gives you a broad background in the legal world. You have constitutional laws. You have to respect the individual rights of students and staff. There's freedom of speech, freedom of religion, freedom of expression — all of those you have to monitor. In human resources, which I practiced for 12 years, you have many employment and labor law issues.

Justice Whitener, you are the first Black LGBTQ+ justice on the Washington Supreme Court. What value do you see having both the LGBTQ+ and Black communities represented on the Supreme Court?

Whitener: I'm the first black judge in the entire state. There hasn't been another one yet. I believe it's valuable as all those positions come from a place of disfranchisement. I can relate to just about anyone who feels excluded for whatever reason. That has been my path — one of exclusion and trying to convince others why I should be included. Inclusion for someone like me means that I must be not just qualified; I must be exceptionally qualified.

My lens is different; coming from such a marginalized background brings perspective. It's not just based on race, gender or sexual orientation. For example, I can represent an individual in Spokane who lost his or her job from a place of disfranchisement.

Mr. Serns, you're facing an opponent who contributes to the racial diversity of the court. What do you add to the body of the Washington Supreme Court?

Serns: I've been a proponent of diversity, including for people of color and racial diversity. The Whitlock School District was 80% white and 20% Hispanic. My first hire was a Hispanic secretary for the district's central office. When I hired a principal, I hired a Hispanic man. I value the diversity that a person coming from an underrepresented group can bring.

I certainly can't provide the diversity that Justice Whitener, who represents an underrepresented group, does. I'm committed to the cause of equity and the cause of justice for all. I'm determined to be truly nonpartisan. I would commit not to let the cause of equity go backward if I'm elected.

I think it builds confidence in the public when there is diversity on the court. The diversity I bring is of perspective, of an outsider, in that respect.

Chief Justice Debra Stephens is the only judge from Eastern Washington. What is your familiarity with Eastern Washington, and what will you do to ensure you are well-informed when cases from Eastern Washington emerge in the court?

Serns: As far as the judicial system, I'm not familiar enough with Eastern Washington. It shouldn't vary from jurisdiction to jurisdiction. Justice should not be a partisan issue. Unfortunately, it has become more partisan than it should be.

The cause of equity and justice for all and the reforms that need to be in place should not be Democrat or Republican. It should not be a white or black issue.

I started my career in Eastern Washington. I do have a perspective having grown up on a dairy farm in Wisconsin. I'm very familiar with the agrarian lifestyle. I certainly respect and value the interest of people that come from that environment.

Whitener: I worked in Eastern Washington when I was a Board of Industrial Insurance Appeals judge. I've been to many places in Eastern Washington — Winthrop, Wenatchee, Moses Lake, Spokane, you name it. As a board judge, you travel to the location to hold hearings. I dealt with people from Eastern Washington. I interacted with them. I lived amongst them. For almost two years, Eastern Washington was my home, so to speak.

I think my experience informed me. Eastern Washington is definitely not Western Washington. You're talking rural Washington. You're talking about farmers. You're talking about individuals working out in the farms, and you're talking about small business owners who are dependent on agriculture. Coming from a small island, I know how agriculture can be a vital part of your income and how natural disasters can kill your livelihood for some time. Those are things you don't learn in a book. I have lived that. I understand the people of Eastern Washington and their ways and their thinking.

Earlier this year, the State Supreme Court vacated a 1916 ruling that charged a Yakama Citizen with illegally fishing that included racist language and disparaged Native American sovereignty. What were your thoughts on the ruling, and what work does the Washington Supreme Court still need to do in dismantling bias and institutional racism present in the judicial system?

Whitener: I think the courts have worked to address the disparity, including institutional racism. The court has a role in addressing those issues the best it can. The case you're referencing is an old case. The Native American was found guilty of doing something in today's eyes that would be absolutely absurd. You have to realize we're talking about Eastern Washington, where fishing for Native Americans and people who reside in Eastern Washington is an essential part of their lives. Yet this old case found this gentleman guilty of doing something so basic. Correcting that case was extremely easy.

Regarding the law, there's no difference between explicit bias and implicit bias to the receiver, in this case, the Native American gentleman. To him, it was always explicit. Implicit bias is your mind; it's subjective. How the law is manifested, and the impact it has on individuals is relevant. The impact on not only this man's life but his tribe and family for something so basic for all our lives was unjust. It was not just treatment. Correcting the error was the right thing to do, and all the nine justices agreed.

Of course, dealing with bias has to continue, and the court is dealing with it. I'm a Supreme Court justice. I'm black and gay. I'm an immigrant. I identify with a disability. I get the explicit bias thrown at me. I have been called the n-word. The "n-judge" who is

trying to inspire the “n-children.” I’ve been told I have not belonged in the court building when my picture is on the wall, and my courtroom is around the court. This is real life for me. Explicit bias exists within our justice system. We have to acknowledge it to address it.

I speak up about my experiences. Systemic racism in this judicial system and this legal system has to be addressed and be addressed by people included in the process. Being able to voice our opinion and our perspective and have it be included in analysis must occur. Our experiences are not something we can learn in a book. They don’t happen to everyone. They happened to me, and you won’t know about it unless I tell you.

Serns: I believe there is no question there’s institutional racism. I read that 80% of black people charged in crimes are represented by public defenders, often because of other social and economic inequities. The experience and quality of the attorney who represents you can influence the outcome.

In every aspect of the criminal justice system, not just the courts — from being stopped, being arrested to being charged and prosecuted and being sentenced — there’s no equity.

When I was 12, I watched Martin Luther King Jr.’s “I Have a Dream” speech in my living room. I was inspired and have been ever since.

I plan to in the future dedicate pro bono time to The Innocence Project. There are hundreds of people in jail, people of color who are not guilty at all or have had excessively long sentences.

I grew up a child of the 1960s. We thought we made a lot of progress in civil rights. But now in the era of body cams and social media, it’s come to our attention — something that black people knew long before — there’s a long way to go and reforms that need to be made.

I have experienced that before you make a policy, you have to listen to the people affected by the decision. We need commissions and ad hoc groups to have people from inner-city communities, public defenders and prosecutors and identify why things are happening and the steps we can do to minimize them.

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